

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MATTHEW SMITH, )  
Petitioner, )  
 )  
v. ) Civil Action No. 05-1513  
 )  
SUPT. DAVID DIGUGLIELMO, et al., )  
Respondents. )

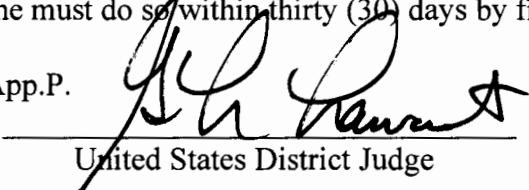
O R D E R

AND NOW, this <sup>20</sup><sup>th</sup> day of Dec 2005, after a petition for a writ of habeas

corpus was filed by the petitioner, Matthew Smith, and after a motion to dismiss was submitted by the respondents, and after the Report and Recommendation of the United States Magistrate Judge was issued, and the parties were granted ten days after being served with a copy to file written objections thereto, and upon consideration of the petitioner's response to the motion to dismiss, treated as objections, and after independent review of the petition and the record, and upon consideration of the Report and Recommendation of the Magistrate Judge, which is adopted and incorporated as the opinion of this Court,

IT IS ORDERED that the respondents' motion to dismiss (Docket No. 6) is granted, and that the petition of Matthew Smith for a writ of habeas corpus is dismissed, and that a certificate of appealability is denied for lack of a viable federal constitutional issue.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the F.R.App.P., if the petitioner desires to appeal from this Order, he must do so within thirty (30) days by filing a notice of appeal as provided by Rule 3 F.R.App.P.

  
United States District Judge